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J. Chapman

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R E M A R K S O N T H E S C H O O L L A W .

DEPARTMENT OF PUBLIC INSTRUCTION, }
Springfield, Ill., March, 1860. }

The following opinions and interpretations of the School Law, are selections, in most instances verbatim, from the official correspondence of the Department.

They are published in this form, for wider circulation, as some of the questions considered, are not local in their character, but have a bearing upon the general interests of education throughout the State.

Q U E S T I O N .

It is proposed to form a new District from parts of several old Districts; is it necessary to have a majority in *each* of the several Districts concerned, in favor of the proposed measure?

R E M A R K S .

It is. The opinion of this Department on the subject of the above inquiry, was expressed in a circular issued March 7, 1859.

I will endeavor to re-state that opinion in clear and explicit terms.

After a township is laid off into Districts, the boundaries of those Districts cannot be changed without the consent of a majority of the legal voters in each and every District interested in, or in the least affected by, the proposed change. If the subject comes up in the form of petition and remonstrance, the Trustees cannot act, unless one paper or the other, contains a

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clear majority of all the voters in the District. It is not enough if one paper simply has *more* signers than the other ; for in that case, a small minority *might* secure a division contrary to the wishes of a large majority. There must be a majority of the *whole District* either for or against, before the Trustees can act.

When a petition or a remonstrance is signed by a *clear majority*, it is the *duty* of the Trustees to act, and to be *governed* in their action by the paper having such majority. For the power of the Trustees, in the premises, is a *delegated* not an *arbitrary* power—they are the agents of the people, whose instructions, when clearly and legally expressed, they are bound to regard.

To be a little more particular: Not the smallest strip of territory, whether inhabited or not, can be taken from one District and added to another, without the consent of a majority of the *whole District* to which such strip belongs, as well as of that to which it is to be attached.

If a majority in *both* Districts is for it, the Trustees can act; if otherwise, not.

If said strip of territory contained, say, five families, and *they* were *unanimous* for being set off, it could not be done without a majority vote of the *whole District* of which they were a part.

Again, if it is proposed to *consolidate*, say, five Districts into one. Only those can be united, by the Trustees, which *consent* to the union, by a majority vote—if *four* are in favor of the union, *they* may be consolidated, but they cannot force the fifth into the measure—if three are for it, the Trustees may unite *them*, but those three have no control over the other two, &c.

The only modification to which these principles are liable, is where the District or Districts concerned, lie in two or more Townships.

In this case, the same rule precisely, holds good, so far as the *Districts* are concerned—nothing can be done without a clear majority in each—the only *new* condition is, that the two or more Boards of Trustees, must “act in conjunction,” as the law has it; that is, must *concur in*, *consent* or *agree* to, the pro-

posed change; without which mutual consent, the proposed measure cannot be legally consummated.

It is not necessary that the several Boards of Trustees should *all meet together*, and debate the question in *joint session*, in order to "act in conjunction," in the sense of the statute. All that is essential is, that there should be *agreement, concurrence*, in respect to the subject proposed. The several Boards may meet together, or separately, and make known their action afterwards.

The foregoing opinions and arguments, are based upon the theory of the absolute independence of individual Districts,—(after their boundaries have once been legally determined)—the indisputable right of the *people* of the several Districts, to manage and regulate their territorial concerns in their own way.

That this view is supported by a reasonable construction of the statute, cannot, I think, be doubted.

Prior to the *first* division of a Township into Districts, the whole Township may be considered as constituting one school District. When the Trustees come, for the first time, to *subdivide* this Township, or general District into school Districts proper, the law declares in terms the most positive and mandatory, in what manner or upon what principles it shall be done—viz—"to suit the wishes and convenience of a majority of the inhabitants."

By this clause, the theory of the law, in the premises, is clearly indicated—the supremacy of the popular will—and the same rule of action, thus authoritatively laid down and applied in the *original* sub-division into Districts, should, in the estimation of this Department be *carried forward* and applied in all *subsequent* changes of boundaries in the separate Districts.

It is not to be denied, that inconvenience and injustice may grow out of the practical application of these principles, in certain cases—all rules and prerogatives are liable to *abuse*.

But this rule of interpretation is adhered to by this office, first, because it is close to the letter, and is believed to be the true intent and meaning of the law—and second, because, even if there were latitude for a different construction, it is believed that the one now given, is far less liable to abuse than that

which would clothe the *Trustees* with absolute and arbitrary control over the subject of boundaries.

The most obstinate and protracted quarrels which have come to the notice of the Department since my connection with it, have grown out of the assumption and exercise of such an unwarranted and irresponsible authority, on the part of the Trustees.

QUESTION.

Directors contract with a man to teach six months. After teaching a short time, the school-house is destroyed by fire. The teacher does not ask, or the Directors offer, a release from the contract. After six weeks, a new house is ready. The teacher resumes his school, completes his six months, from date of contract, and demands pay for the whole time. Is he entitled to it?

ANSWER.

He is. In covenanting with the teacher for six months, the Directors virtually agreed to provide a house and keep him employed. The contract was not conditioned upon contingencies, but was clear and definite. After the house was burnt, the teacher, one of the contracting parties, still felt bound by his agreement, and stood ready and waiting to comply with its conditions. He did not *ask* for a release—the Directors did not *propose* a release, or express any desire for it, or suggest any modification of the contract. And so the teacher waited, for six weeks, regarding himself all the while as bound by the original agreement, and debarred the liberty of seeking employment elsewhere.

If, after the disaster to the house, the parties had agreed to cancel or modify the contract; or if the teacher had sought and obtained other employment, he could not, in that case, have claimed of the Directors the fulfilment of the contract according to its original provisions. As it is, the case is clear—the teacher has legal recourse upon the Directors for his wages for the whole six months.

QUESTION.

District No. 6 was organized five years ago, but never had any school till September 1859. District No. 7 was organized in April 1859, but has had no school. Both will claim a share of the public money in April 1860, on the ground that the six months rule does not apply to newly organized Districts. Can their claims be allowed?

ANSWER.

They cannot. District No. 6 is *not* "newly organized," and hence cannot claim exemption from the operation of the six months rule.

District No. 7 *is* "newly organized," but having had *no school at all*, cannot share in the April apportionment.

The Law allows one year's *grace* only, after organization. If a District does not at least *begin* to do her duty within that time, she forfeits her interest in the school fund.

QUESTION.

If a *Trustee*, whose term of office expires in October, is elected *Director* in September preceding, but does not *enter upon the duties* of the latter office, until after the expiration of his tenure of the former, is he a legal Director?

REMARKS.

I think he is. He did not attempt to exercise the functions of *both offices* at the *same time*. In other words, he was not, in the sense of the statute, "at the same time Director and Trustee"—he did not assume the active duties of Director, until he had ceased to act as Trustee. That a man can be legally *elected* Director, while still a Trustee, is, of course, unquestionable.

I do not think, therefore, that his right to act as Director (to which office he had been legally elected) after his term of office as Trustee had expired, can be successfully challenged, under a *reasonable* construction of that clause in the 42nd Section, which bears upon the case.

QUESTION.

Does the Form of Certificate given in Section 44 of the School Law, answer for *all* legitimate school purposes—such as building school houses, purchasing sites, paying teachers, incidental expenses, &c., &c?

ANSWER.

It does. No other Form of Certificate, for all the purposes concerned, is given or required, in the Act of 1859.

QUESTION.

What constitutes legal evidence of the election of a Board of Directors?

ANSWER.

The Poll-book with the Certificate of the Judges, on file in the office of the Township Treasurer, is the only legal evidence of such election. See Sec. 42, Act 1859.

QUESTION.

Can the Clerk of a Board of Trustees legally act, at the same time, as District Director?

ANSWER.

He can.

SCHOOL YEAR.

Every school year begins October 1st, and ends September 30th.

SIX MONTHS' RULE.

The application of the six months' rule is this: No District is entitled to share in the distribution of the public school fund, which has not had a *free school* for six months, *during the school year next preceding that in which demand is made for payment.*

The rule *always* has reference to the *preceding* school year. Thus: every School District in the State, which had a six months' free school, during the school year ending September

30th, 1859, will be entitled to draw public money in April and October 1860, no matter whether it has had six months school *since the commencement of the present school year, or not.*

If, for instance, a District which has only had *one* month's school, *this school year*, should present its schedule in April next, the Trustees must pay it: *Provided*, That said District had *six* months' school during the *last* school year.

I have been thus particular, because many school officers in the State, have never clearly understood the matter—as hundreds of letters have abundantly testified.

It is of course, unnecessary to add, that a District in which *no school at all*, has been kept the present school year, cannot draw public money in April or October next. *No school, no money*, is the doctrine of the law.

NEWLY ORGANIZED DISTRICTS.

The six months' rule does not apply to *newly organized* Districts.

TRUSTEES TO WITHHOLD FUNDS.

As is stated elsewhere in this circular, it is held that Trustees have the power, and that it will be their duty, to withhold the school fund, in April and October next, from all Districts which have not complied with the six months' rule of the law, as above interpreted.

WHO MAY VOTE, SIGN PETITIONS, ETC., IN SCHOOL DISTRICTS.

Persons qualified to vote under the general election laws of this State, and no others, are entitled to vote, sign petitions, &c., in School Districts.

To this there is but a single exception, and that is in respect to the "question of raising money," where certain qualifications are required, as stated in the 42nd Section of the Act. The construction placed upon that section by the Department will be found in another part of this circular.

TITLE OF SCHOOL HOUSES AND SCHOOL SITES.

Section 39 provides that the "title, care and custody of all school houses and school sites" shall vest in the Township Trustees.

Deeds for such property must be made to the *Trustees*, who hold them for the benefit of the District, and *not* to the *Directors*.

CORPORAL PUNISHMENT.

The *law* is *silent* on the subject of corporal punishment in schools. It neither grants nor withholds authority to inflict it. The whole subject is left to the judgment and discretion of the local school authorities, and to the sanction of general usage and custom.

That the teacher must be clothed with authority to use the rod in certain cases, is self-evident. It grows out of the very nature of the case, and of his relations to his pupils. The prudent exercise of such authority, is acquiesced in by the opinions and practice of the whole country, and is almost invariably sustained by the courts; on the ground, not of statutory enactments, but of common custom, common sense, common justice, and the nature and necessity of the case.

It is only the flagrant *abuse* of the *admitted right*, which either society or the law, is disposed to frown upon and condemn.

BACK SCHEDULES.

Directors cannot certify schedules which reach back more than six months from the regular semi-annual time fixed by law, for the return of schedules.

I am often asked the question: If there is not money enough in April to pay teachers whose wages are then *just due*, and also to liquidate *older* claims; which creditors should be *preferred* and first paid, by the Directors?

I answer, that so far as the matter is optional with the Di-

rectors, justice would seem to require that the oldest creditor should be paid first. If the time when *one* creditor shall be paid, is fixed by definite agreement, while no such specific contract is made with another, *that* fact should decide the course of the Directors. But if, which is generally the case, payment is due and promised, in April, to *all* the creditors alike, there is no margin for preference—the Directors are bound in law and in honor, to meet *all* their engagements. If this is impossible, a *pro rata* distribution would, perhaps, be most equitable.

If a teacher has the promise of the Directors, that his wages will be paid in April, it is a great wrong, not to use a harsher word, to compel him to wait till October—and if the fault is in the Directors; if they did not levy the necessary tax, they may and should be strictly held to account, for their neglect. Contracts with teachers are as sacred, and their strict fulfilment should be as prompt, and may be as rigorously enforced, as any other contracts. The public conscience needs, in many quarters, to be enlightened on this subject. The wretched policy of making a levy that will barely meet expenses on the most parsimonious scale, with no allowance for commissions of collector and other inevitable deductions—thus always leaving the District in debt and creditors dissatisfied—cannot be too earnestly condemned. The assessment should be liberal enough to leave a balance, not a deficiency.

Teachers are entitled to interest on all arrearages of wages, from the time they were due.

WRITTEN PERMISSIONS.

It is held that pupils cannot be legally transferred from one District to another, without the “written permission” of the Directors of *both Districts*.

These permissions should be presented to the teacher, for his protection in the premises, and each Board of Directors should also make a minute of the same, in their Records, as evidence, in case of need, that the transfer was regular.

This is a plain and simple requirement, and if followed, there could be no difficulty.

When a scholar applies for admission from another District, the teacher should, before receiving him, ask for the written evidences of consent. If they are produced, the teacher files them away, and receives the pupil—if they are not produced, the scholar should be informed that he cannot be admitted.

If the teacher is instructed by *his* Directors, to admit a pupil, *against* the expressed wishes of the Directors of *the other* District, the teacher should obey such instructions, but the whole responsibility rests upon the Directors who presume to disregard the wishes of the other District. In such a case, the Directors have no recourse upon the funds of the District whence the scholar comes, and unless they expressly stipulate with the pupil to pay his own tuition, they are responsible personally to the teacher for the amount; that is, if the teacher is paid *by the scholar*. If the teacher is paid by the month or quarter, he would of course, have no claim upon the Directors, for the tuition of the pupil in question.

But the *right* of the Directors, openly to disregard the wishes of the other District, and to require a teacher to receive a pupil, under such circumstances, is, in my judgment, questionable.

OVER FIVE AND UNDER TWENTY-ONE.

Those only, who are over five and under twenty-one years of age, have a *legal claim* to the privileges of the public schools.

But the Directors have, in my estimation, some discretion in the premises. They *cannot refuse* any whose ages are *within the prescribed limits*, but they may, in special cases, and when the interests of the school will not in any manner be compromised thereby, receive persons over twenty-one, either residents or non-residents. The persons so received should be charged a reasonable fee for tuition, and their attendance noted in the schedule the same as other scholars. For such scholars, when non-residents, written permissions will not be

required—when *resident*, the Directors *may*, in special instances, admit them free. Children under five should in no case be received. The public school is no place for infants, and teachers are not deputy-nurses. Children of that age are only sent to school “to be out of the way,” and never fail to be *in the way* of the teacher and of the success of the school. It is to be regretted, in my opinion, that the law does not fix the minimum age at six or seven. Every teacher knows that very young children require more time than older ones, and that in mixed schools they cannot receive proper attention without neglect and injustice to others.

LIABILITY WHEN PUPILS ARE TRANSFERRED.

When scholars are legally transferred from one District to another, the Directors of the District from which such scholars are sent, are liable in law, *to the Directors* of the District in which the school is kept (not to the teacher) for their just proportion of the expense; as provided in the 35th Section of the Act of 1859. The liability is *corporate*, not personal.

THE THIRTY-FOURTH SECTION.

Trustees are to apportion the funds to Districts, on the two-fold basis of *census* and *schedule*, one-half on each. At the risk of needless repetition, I will try to state the several steps in the process, for the guidance of any who may be in doubt.

1. The first step is to ascertain the whole amount on hand, and ready for distribution. And here I would *recommend* that only *cash in hand*, be apportioned. So many instances have been reported to this office, in which the interest *due* on the Township fund, but *not paid*, has been *apportioned* to the Districts, upon the most positive promise of the parties that it *would* be promptly paid, and where such promises have not been kept, and teachers and other creditors have been disappointed, and misunderstanding and trouble have resulted; that I am decidedly of opinion that the better way is for Trustees

not to rely upon such uncertainties, but to apportion *as cash*, that which *is cash*, leaving interest &c. due but unpaid, for the next distribution.

2. The second step is to divide the amount on hand, into two equal parts.

3. The next step is to APPORTION these sums to the several Districts. To *apportion*, and to *distribute*, or *pay out*, are very different. The former, is to estimate and determine the just share accruing to each District. The latter, is to actually dispose of the sums thus ascertained to be due, to the parties authorized to receive them. Days, or months even, may elapse, between apportionment and distribution.

4. The last step in the process, is to *pay over the money*, as required by the Directors, in their certificates on the schedules, or by a special order.

Let us take a case:

I. We have \$5000, on hand.

II. We divide into equal parts, \$2500, each.

III. We *apportion* \$2500, on *census*.

There are four Districts in the Township, from which the returns of children under twenty-one, are as follows:

District No. 1 has 800 children.

District No. 2 has 700 children.

District No. 3 has 600 children.

District No. 4 has 500 children.

Total,.....2600 children.

We then say:

Census Census Dollars. Dolls. cts.

2600 : 800 :: 2500 : 769 23—Amount due District No. 1.

2600 : 700 :: 2500 : 673 08—Amount due District No. 2.

2600 : 600 :: 2500 : 576 92—Amount due District No. 3.

2600 : 500 :: 2500 : 480 77—Amount due District No. 4.

2600 : 2600 :: 2500 : 2500 00 *Proof.*

We now apportion \$2500, on *attendance* certified in the schedules.

The grand totals of days' attendance, certified in the several schedules are as follows:

District No. 1 reports 12000 days.

District No. 2 reports 8000 days.

District No. 3 reports 6000 days.

District No. 4 reports 4000 days.

Total.....30000 days.

We then say, as before:

Days	Days	Dolls.	Dolls. cts.	
30000 :	12000 ::	2500 :	999 99—	Amount due District No. 1.
30000 :	8000 ::	2500 :	666 66—	Amount due District No. 2.
30000 :	6000 ::	2500 :	499 99—	Amount due District No. 9.
30000 :	4000 ::	2500 :	333 36—	Amount due District No. 4.
30000 :	30000 ::	2500 :	2500 00	<i>Proof.</i>

Our Treasurer then makes entries in his Cash Book as follows:

A. B. TREASURER OF T — R — &C.

In account with District No. 1.

To distributive share on census.....	\$769 23
To distributive share on schedule.....	999 99
Amount.....	\$1769 22

And in the same manner, for each District.

The money is now duly *apportioned* to the Districts. The *Trustees* have nothing more whatever to do with a dollar of it, except to instruct the Treasurer to pay it out on the proper order of the Directors. I repeat, that after the money has thus been *apportioned*, all jurisdiction and control, on the part of the *Trustees*, entirely *ceases*. The Township Treasurer now sustains to the several Districts, the relation of banker, with whom the former have funds on deposit, and he is prepared:

IV. To *pay out*, on the order of the Directors.

The Directors of District No. 1 certify on the schedule that there is due their Teacher, as per contract, say \$500. Or they give him a special order for that sum — the schedule is legally equivalent to an order. Whereupon the Treasurer pays the money, takes a receipt, and makes the following entry in his Cash Book:

A. B. TREASURER OF T — R — &C., &C.

In account with District No. 1.

PER CONTRA.

By amount paid C. D. Teacher, &c.....	\$500
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By comparing the debit and credit sides, it will be seen that there is now a balance of \$1269 22, in the Treasurer's hands, to the credit of District No. 1. Upon *this balance*, the Directors may draw, *at any time*, for any legitimate school purposes.

The above remarks are intended merely as *hints* to the *inexperienced*, not as arbitrary formulas, to be literally followed

by all. I am perfectly aware that practical business men, have no need of these suggestions, and that such men will reach the correct result in the apportionment, by a much shorter route. But I am now writing for those who may *not* be practical, experienced business men, and if I have made one single point, more clear, to one single mind, I shall not have written in vain.

EMPLOYING SUBSTITUTES.

If a teacher should be taken sick, or should be absent for any other cause, he cannot employ a substitute against the wishes of the Board of Directors.

DISTRICTS WHICH HAVE NO SCHOOLS.

No funds can be apportioned by the Trustees to Districts in which *no schools* have been kept, or which have not complied with the *six months'* rule—how then is the tuition of scholars from such Districts to be paid, when they attend school in *other* Districts?

Since the Directors of such delinquent Districts, cannot in any manner be recognized by the Trustees, I do not see but one way to proceed in the class of cases embraced in the interrogatory. The schedules of such scholars should be presented (together with the regular schedule of the District) to the Trustees of the proper Township by the Directors of the District *in which the school is taught*, with a note or certificate, setting forth the fact that the pupils in said schedule, are from Districts having no schools, or, which have not complied with the terms of the law. Thereupon, the Trustees, in apportioning upon schedules, shall *add* the total attendance of *the two schedules*, and credit the District in which the school was kept, with the amount apportioned *upon the whole*. The additional amount thus accruing to the District, will be nearly or quite sufficient to defray the tuition of the non-resident scholars. It will also be borne in mind, that the delinquent District forfeits all that

would have been apportioned to it, *upon the census* of children under 21; which amount is apportioned to the *other Districts* of the Township, thereby still further enabling them to meet the expense of schooling the children in question. The same course should be adopted where scholars come from *unorganized* Districts, or from Districts which have had schools, but not for six months, as the law requires.

This view does not contravene or prevent the penal consequences of failing to comply with the six months' rule of the law; while it meets the case of many children who would otherwise be wholly debarred the benefits of our public schools.

It does not avert the penalty, because when a District has forfeited its right to the public funds, there is no possible way for it to regain that right, save by a *District tax* sufficient to defray *all the expenses* of a *free school* for *six months*—after which it will again be entitled to public money.

A delinquent District moreover, is in constant danger of being excluded altogether, from the schools of neighboring Districts—for its children are only “tenants at will” in other schools—liable at any time to be wholly refused. Under no circumstances whatever, can scholars from unorganized, or delinquent Districts, gain admission to other schools, against the will of the Directors of said schools.

If there are children, who, through the indifference or neglect of Directors, have no school to go to—or who are so unfortunate as to live in unorganized Districts—or in Districts too small to sustain a school—and if other and more favored Districts, as a matter of grace and favor, are willing to receive and teach them, they have the right to do so, and to be paid for it. It is the purpose of this explanation to show how it may be done.

DIVISION OF TAXES.

When a new District is formed, from parts of one or more Districts in which taxes had already been levied: said taxes should be divided by the Trustees, *at the time* the new District is formed, and the Treasurer should be instructed to hold the

portion of such taxes belonging to said new District when collected and paid over to him, subject to the order of the Directors of said new District. But if no division of tax funds was made, when the new District was formed, it is competent for the Trustees to make such division, *at any time*, and they should do so without delay—for District taxes are subject to call, at any time after collection, and the new District should not be deprived of her portion by the neglect of the Trustees—sections 33 and 39 prescribe the *manner* of dividing the tax funds when new Districts are formed.

NO PERMISSION NECESSARY IN CERTAIN CASES.

Scholars from *unorganized* Districts, cannot carry written permissions, in asking admittance to other schools, for the simple reason that there are no Directors to furnish them—and the law does not contemplate or require the election of Directors in one District, for the sole purpose of giving permissions to attend school in another District. The consent of the Directors of the District in which the school is kept, is all that is necessary or possible, in such cases.

A District is said to be “organized,” in the sense of the statute, when it has a legally elected and properly constituted Board of Directors.

QUESTIONS.

Is a teacher obliged to teach Algebra in our common schools provided said teacher is competent to teach the same? Would a school be considered open to all scholars if the teacher refused to give instruction in Algebra? Have the Directors power to prohibit a teacher from giving instruction in Algebra?

REMARKS.

The law makes the Directors the sole judges of what the interests of the schools in their district require, and clothes them with full authority to promote and protect those interests in every just and legal manner. The “Proviso” of the 50th section authorizes the teaching of a foreign language in our pub-

lic schools, and it is equally clear that Algebra and the Higher Mathematics may also be taught, when the Directors think proper to introduce them. But the whole subject of studies and text-books is left to the discretion of the Directors, who, alone, have the power to prescribe "what branches shall be taught." The teacher must conform to the "rules and regulations" established by the Board of Directors: if the latter direct that Algebra, or any other particular subject, shall be taught, the former must teach it: he has no option in the premises. If the teaching of that or any other branch is forbidden by the Directors, the teacher must be governed by his instructions. It is impossible for one teacher, in a mixed school, to teach in a proper manner all the branches required by law, and, in addition, the classics, or advanced mathematics. Where a choice, therefore, must be made between the different branches, and some must be omitted, or thrown out, it would always be the duty of the Directors, in my judgment, *to retain those studies required by law*, ruling out, if any, those higher branches, for which only a small number of pupils are qualified.

Graded Schools are the only effectual remedy for such difficulties.

QUESTION.

This morning an order was presented to me for the payment of a teacher, which I refused to pay, supposing that Sec. 53 of the School-Law forbids my doing so until after the presentation of his schedule. The Directors of the District think they have the right to draw money at any time for the payment of their teacher. Is this so?

REMARKS.

Sec 34 provides that all the funds on hand in April and October shall be apportioned to the several Districts, and that the Treasurer shall hold the balance, if any, after paying the schedules, "subject to the order of the Directors of the proper District." The Treasurer is also the custodian of the special District tax funds. (See Sec. 45.) In the light of these legal provisions, the answer to your inquiries is obvious, viz: Directors may draw an order on their Treasurer in favor of their teacher *at any time, provided there is a balance* belonging to their Dis-

strict in the hands of their Treasurer; *otherwise*, the Directors can not draw on the Treasurer, nor can the latter pay over any money to the teacher until his schedule has been filed. The equity and reasonableness of this view must be as apparent as its legality; for, if there are funds in the Treasurer's hands belonging *exclusively to a given District*, it is difficult to see why the Directors of that district should be required to wait until the semi-annual apportionment before they can have the use of them; for such funds do not enter at all into the general township apportionment, nor have the other Districts of the township any interest or claim whatever in such funds. On the other hand, for a Treasurer to advance money prior to the general distribution on schedules from Districts *having no such surplus* in his hands, would be manifestly unjust to the other Districts of the township.

QUESTION.

Whose duty is it to see that "fines," etc., are *collected* after they have been assessed? The 82d section of the School Law provides that certain fines "shall be paid to the School Commissioner" after collection, to be by him distributed; but what course is to be pursued where fines are assessed against individuals and no effort is made to collect them?

REMARKS.

It is the duty of the Justice of the Peace, or other officer by whom the fines, etc., specified in Sec. 82 are assessed, to collect them. If the officers who assess such fines neglect or refuse to collect them, they are legally responsible for such failure or neglect, but not to the School Commissioner. The latter has no official jurisdiction whatever in the case. *His* duty in the premises begins *when* such fines, etc., have been assessed and *collected* by the proper officers.

QUESTION.

Is a School Commissioner authorized to grant certificates for a *less* term than *two* years, except in such cases as are provided for in Section 52?

REMARKS.

I am decidedly of opinion that School Commissioners have no legal authority to issue certificates to teachers for a less time than two years, except in such cases as are provided for in Sec. 52. The School-Law of this State recognizes but two classes of teachers' certificates : one for two years, wholly unconditional, and valid in every district in the county ; the other strictly conditional, and good for only a single district and for one year.

The laws of some States provide for the *grading* of teachers' certificates, and I regard it as a most excellent provision ; but the school-code of Illinois, with the exception above mentioned, contains no such provision. The alternative in this State is, either a certificate in full, without any restriction or qualification, or no certificate at all. Every teacher who presents himself before a School Commissioner for examination has a right to demand that his examination be declared to be, in a legal sense, either satisfactory or unsatisfactory. If the former, he is entitled to a regular certificate, valid for two years, without note, comment, or qualification, and may reject the proffer of one of any other description ; if the latter he has no right to demand, nor the Commissioner to grant, any certificate at all.

The practice of indicating upon the face of a certificate by means of words, marks, or other symbols, the *comparative* excellence of the examination, and hence the relative professional standing of the teacher, is without any authority or sanction of law. It is not affirmed that such a course is always detrimental to the interests of the teacher ; it is not denied that it may sometimes be productive of good results ; but it is denied that such a procedure is warranted by law ; it is affirmed that any teacher may refuse to accept a certificate bearing such marks, and may demand one with no such marks.

That this view is sustained by the plainest reading of the 50th section of the Act, there can be no doubt whatever ; that it is also supported by considerations of fairness and equity, it would be easy to demonstrate.

QUESTION.

Trustees and Directors were elected in our township on the 19th of September, while the law fixes the time for the election of the former on the second Monday in October, and of the latter on the first Monday in September; both elections were legally conducted in all respects except in the matter of *time*; are the acts of those officers valid?

REMARKS.

The law fixes the time for the election of Trustees and Directors; and neither this Department nor any other authority in the State, except the Legislature, has the power to change that time. But if an election is *actually had* on some other day besides that fixed by law, then the question of the *validity* of said election comes before the courts in the manner prescribed by law; this department has no further jurisdiction in the case. But *until* the election has been contested and determined by the proper tribunals, the acts of the officers elected *will be valid so far as the public and third parties are concerned*. The application of this principle to the present case will readily be perceived.

 QUESTIONS.

Does the ten per cent. mentioned in Section 57, and the twelve per cent. in Section 61, cease when an obligation in favor of the school-fund is probated against the estate of a deceased debtor, as in the case of other claims, or do the ten and twelve per cent. continue until the debt is paid? Does a judgment in favor of the school fund cease to draw ten per cent., and draw but six, until the money is paid? Can Trustees of Schools transfer notes or mortgages in favor of the school-fund, if, in their opinion, the interests of the Township require it? Can a mortgage be foreclosed for defaulted interest, the principal not being due?

REMARKS.

After a claim in favor of the school-fund is allowed in the probate court, or is put into judgment, it thereafter, like all other claims, bears but six per cent. Trustees of Schools have no right to transfer notes or mortgages given to the school-fund. Whether a mortgage can be foreclosed for the interest, the principal not yet being due, is a question for the courts to determine; it does not fall within the legitimate province of this department. I may add that I know of no decision directly upon the point.

QUESTION.

Scholars in District A. wish to attend school in District B. The Directors of District B. are willing; but those of District A. are not, and notify the teacher in B. not to receive said scholars. Can District B. draw public money on the schedule of said scholars, should they persist in attending school in B. contrary to the express orders of the Directors of District A?

REMARKS.

No other than a *negative* answer can be returned to this question. The case falls under the provisions of the 35th section of the Act. The right to transfer pupils from one District to another is conditioned upon "the written consent of the Directors of both districts." If the violation of this plain requirement did not involve the forfeiture of the public school-fund the requirement itself would be divested of all penal force and become a useless nullity. It is admitted that great inconvenience, and even injustice, may, and some times does, result from the indiscreet or unfriendly exercise of the power which this section confers upon Directors. But far greater evils grew out of the almost unlimited license to change schools which was claimed and very generally exercised under the Act of 1857. The object of the restrictive clause under review is, to protect the schools of each District from being over-crowded and deranged in their order and classification, on the one hand, and from being reduced in numbers and almost broken up on the other. Without such a legal check no school would be secure against the ebb and flow of numbers incident to the emulous strife of rival Districts, and the whims, caprices and jealousies of change-loving children, and captious, fault-finding parents. But when the good of the scholar, or the convenience of the parent, would manifestly be promoted by the transfer, while the interests of the home school would suffer no material injury, the Directors should be as prompt to grant such requests, as to refuse them upon an opposite state of facts.

 QUESTION.

Is a teacher entitled to *interest* on money due for services rendered?

REMARKS.

Under the 2d section of the general laws of the State (Rev. Stat., page 294,) regulating interest, Treasurers of Townships should pay six per cent. per annum interest on schedules that have been regularly filed by the Directors before the time fixed for the semi-annual distribution of the school-funds, and which, for any reason, can not be paid out of such distribution—the interest to be computed from the time fixed for such distribution. A schedule thus certified is undoubtedly a liquidated account, and, in contemplation of law and the contract between the Directors and the teacher, should be paid at the time provided by law for the distribution of school-funds, unless they otherwise agree or contract. If, for any reason, the amount appearing by the schedule to be due can not then be paid, it is just and equitable, and, as I think, within the letter as well as the spirit of the law regulating interest, that interest should be paid after that date. The Directors who make the contract with the teacher have the power to provide the means of payment, and are supposed to contract with reference to the means to be at their disposal at the time when, by the contract, the teacher should be paid. If they have been negligent in providing the means, or if there has been default in collecting, or if from any other cause they are unable to pay at the proper time, they stand, in their corporate capacity, like other debtors, and should pay interest. Their liability, however, is a corporate liability, and not a personal liability; and the interest should be paid, with the principal, out of the funds belonging to the district.

QUESTION.

If a teacher sue the Directors, is their private property liable?

ANSWER.

It is not. Directors may be sued “as Directors,” not as individuals. Their private property can not be taken in satisfaction of any judgment obtained against them in their official character as Directors.

QUESTION.

The Treasurer reports to the Directors a certain sum to their credit; upon the strength of this report the Directors hire a teacher and have a school. It turns out that the funds reported by the Treasurer were only *apportioned*, not *collected*. The teacher sues for his wages. What redress have the Directors?

ANSWER.

It is the duty of Directors to *know* that means will be at their disposal to meet their engagements with teachers and others. If they trust to the report of the Treasurer, and it turns out that he reported funds as on hand which were apportioned but not collected, and suit is brought by the creditors of the Board, the Board have no redress in law.

 QUESTION.

What is the legal relation of the present Board of Directors to the acts of their predecessors?

ANSWER.

Directors are a "body politic and corporate" in the fullest sense of that phrase; and hence, all the legal acts and contracts of one Board are binding upon their successors.

 QUESTION.

Section 34 provides that the "Township Treasurer shall hold the balances, if any, apportioned on the schedules, *subject to the order of the Directors of the proper District.*" When may orders be drawn on the Treasurer for such balance, in order to render them valid?

REMARKS.

When the Trustees meet, in April and October, their first duty is to "*apportion*" to the several Districts the amount of money on hand; that is, to determine and assign, in the manner required by law, the due proportions and just share to which each district is entitled. The amounts so apportioned and determined are then placed on the books of the Treasurer, to the credit of the several Districts. The Treasurer then proceeds to *pay out* these funds to the persons authorized to receive them,

charging each District, on his books, with the amount so paid out. It some times happens that a surplus, or "balance," remains to the credit of a given District after all orders from such District have been presented and paid. For this balance, or for any part of it, the Directors may draw on the Treasurer at any time, and may use the same for any legitimate school purposes whatever. A simple order is sufficient; no schedule need be filed with such order. This view does not conflict at all with the provisions of the 53d section, in which the authority of the Treasurer to pay teachers is conditioned upon the filing of schedules. That section simply makes the filing of schedules essential to the claim of a given District in the *original distribution* of the funds; it has nothing to do with the disposition of the surplus *after* such distribution—that is provided for in the 34th section, upon *which* the foregoing remarks are based.

[NOTE.—The material points of this question have already been considered; but the importance of the subject seemed to justify an additional notice, which, it is hoped, will serve to place the whole matter in a clearer light.]

QUESTION.

Who are legal voters at District elections on questions of raising money? Does the paying of a road-tax confer the right to vote, provided the party has been a resident of the District the required length of time?

REMARKS.

The case involves the proper construction of the following clause in the 42d section of the act of 1859:

No person shall be entitled to vote at any District election, on the question of raising money, unless he shall have resided in the District at least thirty days immediately preceding said election, nor unless he shall have paid a tax in said District the preceding year, or shall have been assessed in such District for the year in which such election is held.

In seeking the true intent and meaning of this clause, it may be of use to observe that words in a statute, when not technical, and when not shown by the context to have a different import, are to be interpreted, precisely as elsewhere, according to their most plain and obvious common-sense meaning. The construction is not to be forced because the Legislature is presumed to have *intended* to say or enjoin what is failed to

express. This is substantially the doctrine laid down by such authorities as Mansfield, Coke, and others, in England, and by Marshall, Story, and Kent, in this country. (10 Coke, 57; 3 Coke, 7; 1 Wheaton, 326; 1 Kent, 462, etc.) Guided by these principles, we can hardly fail to arrive at a correct understanding of the clause in question. It must be taken in its natural, ordinary sense, as to the meaning of its terms. The residence of the voter must be *bona fide*, and, in addition, he must either have been assessed in the district during the year or he must have paid some public tax in the District within the year previous to the election. The tax, of course, must be one levied by authority of law; but the statute makes no distinction as to whether said tax was one levied on realty or personalty. Nor is it material whether it was for state, county, or municipal purposes; a road tax or school tax would be sufficient. Some have supposed that the word "assessed" defines and limits the word "tax" in this clause, restricting the meaning to real and personal property. But it is held that there are no satisfactory grounds for such a restriction. *Any tax* annually imposed or levied, and required to be paid, by lawfully-constituted public authority, state or municipal, is "assessed" to all intents and purposes. This law, moreover, being restrictive of the right of citizens to vote, must be construed liberally, in their favor.

QUESTION.

Can money due on schedules—both schedules and money being in the hands of the Township Treasurer—be taken by the garnishee process?

REMARKS.

There is no authoritative decision of our courts directly upon the question. Some of our circuit courts have held that money in the hands of a School Treasurer unappropriated to a particular creditor or on a designated schedule could not be garnisheed. Others have held that if the money has been appropriated to the payment of a particular schedule it may be garnisheed. It must remain for the courts to determine under what circumstances, if any, money due teachers can be garnisheed.

QUESTIONS.

If Directors are elected at any other time than that fixed by law, can they lawfully act as Directors? Can Directors resign; and if so, and others are elected prior to the first Monday of next September, how long can they hold office?

REMARKS.

Directors elected as in the first interrogatory may act, and their acts will be valid, until they are restrained from acting by due legal process. Directors may resign, and their places be filled by a new election, at any time—notice being given as required in Section 42; in which case, the persons elected to fill such vacancies will hold their offices for one, two and three years *from September*, 1859. If the Directors elected last September *drew lots* for their terms of office, as required by law, then, the new election being to fill vacancies, the voters at said election should designate on their ballots whose place, or which vacancy, each person voted for is to fill. But if no lots were drawn last September, three persons should be voted for in the usual manner, who should draw lots “at their first meeting” for one, two and three years. The Director who draws for one year will hold his office *until next September*; the one who draws for two years will hold his office till one year from next September, etc.; each term dating from the last annual election, so that the time for the regular annual election will remain uniform in all the districts throughout the State.

QUESTIONS.

What are the respective limits of parental and school authority? What jurisdiction has the teacher over pupils out of school? May scholars be required to study a certain number of hours out of school?

REMARKS.

School Directors are authorized and required, by law, to prescribe and establish such rules and regulations as will, in their judgment, best promote the proper order, discipline, and proficiency in study, of the schools under their care. It is the duty of teachers to co-operate with the Directors in all their efforts for the improvement of the schools, and faithfully to

carry out their instructions and wishes. Directors are also clothed, by law, with full power to enforce obedience to, and to punish, by suspension, expulsion, or otherwise, any obstinate infraction of, the rules which they have established.

It is not always easy to fix the line of separation between parental and school authority—to state precisely where the former ends and the latter begins. A brief inquiry into the nature and purpose of public schools will lead us to certain general conclusions which bear upon the subject.

The whole care and training of very young children must, in the nature of things, devolve upon the parents alone. As they advance in years, a demand arises for a more thorough and systematic course of mental discipline than most parents have either the time or the ability to impart. To meet this demand and perform this service schools are established and teachers employed. Thus the parent, in theory at least, *delegates* to the teacher, for the time, the guardianship of interests most vitally affecting the welfare of his children. But, in order to discharge these trust duties successfully, the teacher must also be invested with adequate *control* and *authority* over the children while they are under his instruction. With the transfer, therefore, from parent to teacher of a large class of *duties*, there is necessarily implied the transfer of an equally important portion of the natural *rights* and *prerogatives* of the former to the latter.

Again: Since a school embraces the children of not one merely, but several families, it follows that the right of the teacher to control and govern, *in loco parentis*, the children of one family is subject to material modifications when the interests of all the children are to be considered. This generates the necessity of vesting in the teacher a large *discretion*, also. Privileges and immunities which might be safely granted, under peculiar circumstances, to the pupils from one family might be highly detrimental to the school if extended to all. The right, therefore, of prescribing and maintaining such rules as will best subserve the interests of the school, as a whole, must reside *some where*; the law places that right in the hands of the Directors and teacher, as being most competent to exercise it wisely and prudently; and both reason and common

sense must sanction as just what the Legislature has declared to be legal.

From these premises it follows:

1. That it is the legitimate province of the Directors to adopt and enforce a code of specific rules and regulations for the government and discipline of their schools.

2. That the patrons of the school are bound, not only by the express provisions of law, but also by the nature of the implied compact between the parties, and by the obligations of moral justice as well as necessity, to acquiesce in and support the government of the Directors.

In respect to details it is hardly practicable to lay down any precise rules which would be of universal application. But every school-government, to be efficient, must be *strong and decisive*; the law wisely makes it so; the necessities of the case demand that it shall be so.

That Directors have the right and power to prohibit pupils leaving school *during school-hours*, for the purpose of attending dancing and other similar parties, or for any cause whatever, except sickness, or some urgent necessity, there can be no doubt at all. To *this* extent, at least, the powers of Directors rest upon the ground of clear and unquestionable legal right.

What jurisdiction and control, if any, the Directors and teacher may exercise over the pupils *beyond* this point, it is not so easy to determine. We here pass the boundary of clear and well-defined authority, and enter the domain of comparative uncertainty and doubt, where usage, circumstances, and expediency, must be our guide.

If the teacher insist upon uniformly thorough and excellent recitations, according to the several abilities of the scholars, which it is undoubtedly his right and duty to do, then, whatever hinders or prevents the attainment of the required standard of excellence must, of necessity, be dispensed with; and thus an evil may be reached *indirectly* which can not be directly proscribed. A teacher can not say to a scholar that he shall not, out of school-hours, go a hunting or fishing; that he shall not attend picnic, dancing, or other parties; but he *can* say that every lesson and exercise of the school shall be promptly and faithfully learned. If the scholar can comply with this de-

mand and still have leisure for those pastimes, he has a perfect right to indulge in them, so far as the teacher and Directors are concerned. If he can not do both, the alternative is before him; the school authorities can not relax or relinquish their legitimate demands.

Scholars can not be suspended or expelled without the advice and consent of the Board of Directors.

In respect to study out of school-hours, the course of the teacher must be persuasive, not coercive. It will be inferred from what has already been said, that the right to demand such extra study is not conferred by statute: nor is it important that such power should be delegated by law. Scholars whose age, health, and advancement, are sufficient to render such extra study desirable and profitable will rarely need any thing more than the promptings of their own minds, seconded by the friendly counsels of the teacher, and the incentives of a natural and laudable ambition to advance in learning. Pupils of tender age and frail physical constitutions *ought* not to study out of school; if disposed to do so, they should be *dissuaded* from it by both teachers and parents. Six hours a day of assiduous attention to school duties are, for *such children*, quite enough for both mind and body—often too much.

It is not intimated that older and more advanced pupils, in full vigor, intellectual and physical, should not study out of school: they may and *ought* to do so; all *legitimate* means should be used to *incite* them to do so; if they master their studies they *must* do so. But to require or even permit this, of the class of scholars above referred to, in my judgment, is wrong—often leading to the saddest consequences. Progress, moreover, is not always in the ratio of the time devoted to study. An hour of fresh, vigorous, concentrated effort is more productive, is of more value every way, than half a day of lazy, listless, desultory prosing and droning over books, while the attention is not fixed and the mind only half awake.

Let the hours of school be hours of *study*—sincere, earnest, active; let life and energy mark all the movements in the school-room, all the efforts of both teacher and pupils, from the beginning to the end of the session; let this be done in

every school, every day, and then, for the *majority* of scholars fresh air, exercise, sunshine, and recreation, will be better than extra tasks.

QUESTIONS.

Suppose a District has seven months' school one year, and five months' the next year: can these be *averaged*, and the District draw public money the third year? Is it competent for the *Trustees* to withhold the public money from Districts which have not complied with the six months' rule?

REMARKS.

The law undoubtedly requires, as the condition of participating in the distribution of the public school funds, a six months' school during *each* and *every* year. If I am right in this opinion, it will not of course, satisfy the law to average the time of two or more years, taking the surplus months of one year to make good the deficiencies of another, etc. As this provision of the statute is fundamental and mandatory in its character, the duty of seeing that it is complied with is also imperative; and since the *Trustees* are the only officers in the State who *always have at hand* legal and reliable evidence on this point (in the certified schedules on file in the office of their Treasurer), I am disposed to the opinion that it is competent for the Trustees to inquire into the matter, and withhold the public funds from delinquent Districts, unless such delinquency can be explained in a satisfactory manner. But this Department may interpose, *for adequate cause*, and require the Trustees *not* to withhold the public money, or the reverse, as the case may be.

QUESTION.

The proviso of the 52nd section of the law is in these words:

"*Provided*, if the Directors of a District shall certify that they are unable to procure a teacher competent to teach the branches required by this act, the commissioner shall issue a certificate of qualification to teach such branches as said Directors may specify; which certificate shall be valid only in said District, and for one year."

Does this preclude the necessity of an *examination*, by the School Commissioner, on the branches specified by the Directors? When the Directors certify as in the proviso, *must* the Commissioner forthwith issue the required certificate?

REMARKS.

The qualified certificate, authorized to be granted, on certain conditions, by the "proviso" of the 52nd section of the School Law, can *only* be issued upon a *satisfactory examination* in the branches specified by the Directors. The "proviso" does not change in the least the *ground* upon which *alone, any* certificate can be issued: namely, the *qualification* of the candidate as required in the 50th section; it only *allows* the Commissioner, in certain cases, to give a certificate of ability to teach a *part, instead of all*, of the branches required by law. There must *always be an examination satisfactory to the Commissioner.*

 QUESTIONS.

1. From District No. 1, having a school house valued at \$300, a part is set off to another District. The Directors refuse to apportion the value of the house between the two Districts, on the ground that they have no deed to the site on which the house stands.

2. No. 2 has a house valued at \$650. The Directors concede the right of the territory taken from them, to its proportion, but do not think they have the power to levy a tax for that purpose.

3. After District No. 4 had levied a tax, said District was divided, a part being set off to No. 7. No. 7 elected Directors, but kept no school. How shall the *tax funds* be disposed of in this case, and what is the law in the other two cases?

ANSWER.

1. It is the duty of the *Trustees* to divide the property without delay. The fact that the District does not own the *site*, does not release it from the obligation to divide the value of the *house*, which it *does* own, and which both Districts helped to build. The case falls under section 39, the language of which is too plain to require any explanation.

2. The Directors *have the power* to levy a tax to refund the proportion of the value of the house, rightfully belonging to the territory set off. It is a "debt legally contracted," for which the 48th section makes the Directors "liable." It is a "necessary *incidental* expense," for which the 43d section declares the Directors "shall be authorized to levy a tax."

3. No. 4 must refund to No. 7 the amount of taxes collected

from the territory of the former, which was set off by the latter.

Money raised by *special District taxation*, is not a "public fund" in the sense of the law. It belongs exclusively to the District which levies it, and is not in the least affected by or subject to, the "six months' rule," or any other requirements of the school law.

NO DISTINCTION TO BE MADE IN FUNDS.

Treasurers will make no distinction whatever, between the money apportioned to Districts by *census* of children, and by *schedule*. The two parts must be placed to the credit of the several Districts and held by the Treasurer, on precisely the same conditions; subject to be paid out on schedules and other orders drawn by the Directors; as fully explained in the former part of this circular.

The sole purpose of the Legislature, in the amendment to the 34th section was to benefit the agricultural Districts, which cannot have as many months' school in the year, as Districts in the towns and villages—*not* to create two distinct funds, subject to different regulations.

THE GERMAN LANGUAGE.

It is held that ample authority is conferred upon Directors, by the second "Proviso" of the 50th section of the Act, to allow and cause the German Language to be taught in the public District schools of this State, whenever, in their judgment, the interests of education, and the just claims of the community, require the same to be done—subject always, to the provisions of the Act, regulating public schools.

FORM OF SCHEDULE.

Schedules must be kept, *substantially*, in the form given in the 53d section of the school law.

Schedules in which the *footings only*, of the daily attendance of each scholar, are given, would not be legal. *Each day's* presence or absence, must be indicated in every schedule, or the Trustees may reject them.

QUESTION.

Can Directors dismiss a teacher without giving any reasons—or, if they assign any of the causes specified in the 48th section, must they *adduce proof* before they can dismiss a teacher?

ANSWER.

For, “incompetency, cruelty, negligence or immorality,” Directors may, at any time dismiss a teacher, either with or without assigning reasons—with or without specific allegations and proof. But, any teacher feeling aggrieved by the action of the Directors, can *sue* them for his wages, and other damages, and thus *compel* them to show cause for the dismissal, and to support their allegations by adducing *adequate proof*.

QUESTION.

If a majority cannot be obtained for a school house site, or for a new school house, and if the Directors cannot rent or hire a suitable room or house for a school, what is the remedy?

ANSWER.

The law provides *no remedy* for such an emergency. The people must agree, by compromise, on a site, or they cannot, under the present law, have a school house.

RENTING SCHOOL HOUSES.

Directors have full power under the 43d section of the present Act, to *rent* suitable rooms or houses, for schools, without a vote of the people—and the obligation imposed upon them by the 48th section, makes it their *imperative duty* to do so, whenever necessary.

QUESTION.

Have Directors the power, under the 43d section of the Act of 1859, to levy a tax sufficient for six months' school *independent* of the public money, or a tax, which, *with* the public money, will be enough for a six months' school?

ANSWER.

The *latter* construction is held to be the true one.

QUESTIONS.

Can Trustees lawfully borrow the whole or any part of their own Township funds? Would they be indictable for so doing? Can the withholding of interest due be construed, under the statute, as "appropriating the funds to their own use"? Is it the duty of the Treasurer to enforce the collection of money from Trustees when due? Can he collect funds due the Township without a special order from the Trustees? Is he penally responsible if he fails to do this? How long will a mortgage be valid as a prior lien against subsequent mortgages if it be not foreclosed?

REMARKS.

There can be no question, I think, but that the loaning of any portion of the school-fund under the control of the Trustees, by themselves, to one or more of their own number is wholly without any sanction of law. It brings their individual interests in conflict with their trust duties, and, aside from the express provisions of the 42d section of the Act, is contrary to the general principles of law governing trust relations and official conduct. Such a transaction is of the nature of a "contract" in the sense of the statute, and, as such, is explicitly prohibited in the 42d section of the law. The question as to whether the Trustees are indictable or not, falls more properly within the province of the prosecuting attorney; but it by no means follows that they can be proceeded against criminally because they have made an illegal contract. The simple failure to pay the interest on the money borrowed would not bring the case within the provisions of the Act in regard to appropriating funds to their own use, nor could they be indicted for the same. The law undoubtedly makes it the duty of the Treasurer to enforce the payment of interest from Trustees when it becomes due. From a careful examination of all the different sections of the Act which bear upon the que

of the duties of the Treasurer in respect to collecting moneys becoming due to the Township, it would seem that the law intended to give the Board of Trustees a controlling power over that officer in this particular, *if they see proper to exercise it*. This is more especially manifest from the 64th section of the Act. The 61st section makes it the duty of the Treasurer to proceed to the collection of all claims due the Township, when they mature; and if any loss accrues from this neglect in this particular, he and his securities become liable (*see section 64*), unless he acted, or was warranted in his failure to act, by an order of the Board of Trustees, entered upon their journal and subscribed by the President and Clerk; in which case, if loss accrues, the Trustees become responsible. In case of loss by the neglect, he is responsible for failing to collect, in proper time, the debts due the Township, unless he was ordered, in the manner prescribed above, not to collect. A mortgage upon real estate does not lose its lien or priority, if it has been recorded, by failing to foreclose when it becomes due. It retains its lien until the debt becomes barred by the statute of limitations.

QUESTION.

The apportionment of the public money in the manner prescribed in section 34 is often grossly unjust to the weaker Districts: in such cases may not the inequality and injustice be remedied by *averaging* among the several Districts the aggregate of all the days' attendance certified in the schedule?—would not such a course be in accordance with the *spirit* of the law, and therefore justifiable?

REMARKS.

While it would not be difficult, perhaps, to suggest modes by which greater uniformity might be secured in the practical bearings of the school law in extraordinary circumstances (and the same is true of any statute), yet it is obvious to remark, that *the law as it is*, in its most plain and simple acceptation, is our only safe rule of official conduct. To claim the right to deviate from the clear provisions of the statute because, in our judgment, considerations of equity demand it, would be fraught with the most dangerous consequences. The general exercise

of such a discretion would lead to utter confusion in the practical working of the system; become a prolific source of controversy and litigation; convert the imperative requirements of law into a dead letter or a series of mere impotent suggestions, and virtually abolish the high prerogative of the Legislature. It will, of course, be observed that I am now speaking of the necessary tendency and logical results of the *principle* objected to, not at all of the particular departure from the instructions of the statute submitted in this case for my consideration. To the latter, there can be no special objection urged, perhaps, save that it is *totally illegal*. In a section of law so explicit as that which prescribes the manner of apportioning the public school fund (section 34 Amendatory Act of 1859), but one rule of interpretation is possible. So clear and exact are its provisions, that no latitude of construction is afforded — no issue can be made between the *letter* and the *spirit*. It is not denied, of course, that where the language of the law is ambiguous, or the meaning uncertain, there is a margin for the exercise of a legitimate discretion; but in the case under review, the language is *not* ambiguous, the meaning is *not* uncertain. I cannot doubt that, upon further reflection, you will concur in the opinion that, as public officers, whose duty it is faithfully to interpret and execute existing laws *as they are*, not to change, modify, or ignore them, we are absolutely restricted to the view of the case which has now been presented.

QUESTION.

The 42d section of the law as amended, fixes the the time for the election of Directors on the first Monday of September, 1859. Now, in case a District is newly organized, may there be an election for Directors prior to the time fixed by law? Would such an election supersede and take the place of the one required to be held in September?

REMARKS.

There must be an election for Directors, in every District in the State, on the first Monday in September, the time fixed by law. A prior election, as in the case of a newly or-

ganized District, may, of course, be had; but such an election can not supersede the necessity of a new election in September. In the notice of such prior election it should be stated, that it is only for the time till next September.

QUESTIONS.

A certain District lacked a little more than two weeks of having a six months' school in the year ending October 1st, 1858, for the following reasons: The school was suspended one week for the want of fuel. At another time there was a religious meeting of much interest in progress in the neighborhood, and the Directors authorized the teacher to close the school for a week or more, to allow all an opportunity to attend. The Trustees rejected the the schedule on the ground that the six months' rule had not been observed. Were they justifiable in so doing? Can the Trustees withhold District tax money from the District to which it belongs?

REMARKS.

A six months' free school during the year next preceding that in which demand is made for payment, is a fundamental and mandatory requirement of the law. In default of this, no District is entitled to a distribution of the school fund, unless good cause can be shown why this necessary legal requirement was not fulfilled. By a strict construction of statute, therefore, the Trustees were undoubtedly correct in ruling out the schedule above referred to. But were the reasons given for suspending the school satisfactory? If so, it would certainly be competent for, if not incumbent upon this Department to direct that the funds should not be withheld. A moment's consideration must suffice, I think, to convince us that those reasons were *insufficient*. Directors can hardly expect to be excused for so palpable a neglect of duty as that of allowing their schools to be suspended a week for want of fuel; nor can they find any warrant in law, or even in sound discretion, for closing the *public schools* a week or more on account of a religious meeting, however important, in itself considered, the latter may be. I am forced, therefore, to the conclusion, based upon the state of facts presented, that the District in question has forfeited its share of the public money for the present year, through no illegal act of the Trustees, but by the neglect and wrong judgment of the Directors. The Trus-

tees have no control whatever over special District taxes. The law places them under the exclusive authority of the Directors upon whose order alone the Treasurer is required to pay them out.

On page 14 of my circular of March 7th, 1859, the following question and answer occur:

“QUESTION.—Say District A. has two schools; one is kept five months and the other four months during the school year. Can the Directors lap the two together and claim to have had a six months' school?

“ANSWER.—They cannot. Each school must be kept up six months to entitle it to claim public money.”

This answer is correct, *provided*, the two schools are kept at the same time, but if kept at different times in the same year, they *may* be united.

Thus: Suppose District A. has one school of three months in March, April and May, and another of three months, in October, November and December, (say) in the year 1859, said District has had a six months' school, as the law requires; but if *both* of said schools were taught during the *same* three months, they could not be united and considered as six months, but only as three.

QUESTION.

Can School Commissioners apportion any part of the State and County Fund, either upon census or territory, to Townships, in which no schools have been kept according to law.

ANSWER.

School Commissioners will apportion no MONEY to Townships in which no School has been kept, according to law. But if in a Township, a single School has been established and kept, as the law requires, then that Township comes under the Statute, and is entitled to participate in the distribution by the School Commissioner.

QUESTION.

Elections of DIRECTORS can only be held on Monday—does the law require all other District elections to be held on Monday?

ANSWER.

It does not.

QUESTION.

No election for Directors was held on the first Monday of September, as required in the act of 1859—what is the consequence?

ANSWER.

If no election, for Directors, was held on the day fixed by law, the old Directors hold over till the next regular annual election.

The old board were elected under the act of 1857, and were to “continue in office for the term of one year, and *until their successors were elected.*” Their successors not having been elected, on the day specified in the law, and no provision having been made in the act, for an election of Directors to be held on any other day, except to fill vacancies, it follows that the former Board must continue in office another year. It follows, also, that it is not competent for said Board to draw lots for one, two and three years—*that* being a provision of the act of 1859, and not of 1857, under which the said Board were elected. Hence, in all cases embraced in the interrogatory, the former Directors remain in office one year, and then *all retire*, according to the terms of the act under which they were elected, and a new Board are elected, who proceed to draw lots &c., as prescribed in the act of 1859.

SIX MONTHS' SCHOOL.

The six months school, required by law, may be taught either in *consecutive* months, or at *different* periods of the year—*any time* from October to October.

ELECTIONS.

This office is burdened with letters asking for decisions, opinions, interpretations, &c., in respect to Township, and District *elections*. It may be of use to say, that: "The manner of opening, conducting and closing" school elections, both in Townships and Districts, "and the several liabilities appertaining to the Judges and Clerks, and to the voters separately and collectively, and the *manner of contesting* said election, *shall be the same as prescribed by the general election laws of this State.*"

I shall always be ready and willing to give any information in my power, and to offer an *opinion* when desired, upon the various questions pertaining to elections. But it is presumed that none need to be informed, that such questions are entirely outside of the *official* sphere of this Department, and that whatever consideration any expressions of mere individual opinion on such points, may be entitled to, such expressions of opinion, have *no official authority* or force whatever. This office has no power to decide such points—they do not belong to the *school law* at all, but to the general election laws of the State and should be referred to the lawyers and courts.

FINES AND FORFEITURES.

I am satisfied, from the returns of the different counties of the State, for the last school-year, now on file in this office, that a large amount of money, legally accruing and belonging to the school fund, from the fines, forfeitures, &c., specified in the 82nd section of the Act, never reaches its lawful destination, and is utterly lost to the cause of education.

The language of the law, in the 82nd section, is as follows: "And all other fines, penalties and forfeitures imposed or incurred in any of the circuit courts of this State, or collected by justices of the peace or other county officers, except fines collected in incorporated towns or cities for the violation of the by-laws or ordinances of said towns or cities, *shall be paid to the School Commissioner of the county where such fines, penalties and forfeitures have been collected*, and the same *shall be distributed by said Commissioner in the same manner as the common school*

funds of the State are distributed; and if any county officer or justice of the peace aforesaid shall fail or refuse to pay as aforesaid, after collection, such officer or justice of the peace, so failing or refusing to pay as aforesaid, shall forfeit and pay double the amount of such fine, penalty or forfeiture as aforesaid, collected by him, to be recovered before any court having jurisdiction, in a civil action, at the suit of the School Commissioner."

This language is too clear to be misunderstood. It imposes upon the clerks of the circuit courts, and upon justices of the peace and other county officers, the duty of paying over such funds, to the School Commissioner—it assesses penal damages in double the sum withheld, upon any county officer, or justice, who shall *FAIL* or *refuse* to pay over such funds, after collection and it *authorizes* and *requires* School Commissioners, to bring suit against all defaulting officers. Notice the language: Officers who "*fail*" to report such funds, are liable—they are derelict in duty, if they do not come forward *voluntarily*, and hand over the funds. If they neglect this, and are called on by the Commissioner, they are also liable if they "*refuse*" to pay on demand.

The fault then is not in the law. But there must be gross delinquency *somewhere*. How shall these funds be collected and made available for school purposes?—that is the question.

The 8th section of the act, defining the duties of the Superintendent imperatively requires of him to "make such rules and regulations as he may think *necessary and expedient*, to carry into *full effect* the provisions of this Act, and of all the laws which now are, or may hereafter be in force, for establishing and maintaining schools in this State; and he shall have power, and it *shall be his duty*, to explain and interpret and determine to all School Commissioners, Directors, *township* and *other school officers*, the true intent and meaning of this act, and *their several duties* enjoined thereby, &c."

Now, here in the 82nd section, we have a clear "provision of this act," which is *not* "carried into full effect," by a great deal—in it there are "*duties enjoined*" which are *not performed*.

Acting therefore, under the authority conferred in said 8th section, I propose to reach the funds specified in the 82nd sec-

tion as rightfully due to the school fund, in the following manner:

It shall be the duty of the Township Treasurer, of each and every township in which there is a justice of the peace, excepting incorporated towns or cities, as soon as practicable after the receipt of this circular, to examine the docket of said justice, in respect to moneys belonging to the school fund, and to report the result of said examination to the School Commissioner. And semi-annually thereafter, each Treasurer as aforesaid, shall *repeat* said examination of said justice's docket, and report to the School Commissioner as aforesaid, on or before the 15th day of March and September—so that the School Commissioner can include the amount of funds so collected, in his semi-annual distribution to the different townships of the county.

And it shall be the duty of each and every justice of the peace aforesaid, to give to the township Treasurer aforesaid, full and free access to his docket, for the examination aforesaid, and to pay over to the said Treasurer any and all funds collected and in his hands, and belonging of right to the school fund, taking the receipt of the Treasurer therefor. But justices of the Peace are not, hereby, released from the duty of paying over said fines, &c., to the School Commissioner as required by law, nor is the Commissioner absolved in the least, from any duty, in the premises, devolved by law upon him.

The first examination required herein shall reach back to the date of the election of the present acting justice—and each subsequent examination, to the date of the preceding one. Upon receiving the report of the Treasurer, the School Commissioner will have exact and reliable data upon which to act. And when said reports shall reveal the fact that moneys collected and belonging to the school fund, remain in the hands of any justice of the peace, it shall be the duty of said Commissioner to institute legal proceedings for the recovery of the same, as required in the 82nd section of the act.

When funds are paid by the Magistrates to Treasurers, the latter shall pay over the same to the School Commissioner without delay, and take his receipt therefor.

meet to form the Union District, whether their separate organizations shall remain, or whether the Union Board shall act as sole Directors for the whole consolidated District. This point being settled, the way is clear.

Trustees only, have the power to make or change the map or plat of a Township, and designate the boundaries of the several Districts. And it is necessary, after the Union District has been formed, as above, for the map to be changed to correspond, for the guidance of the County Clerk, in extending taxes which the Union Board may levy. It is held to be the *duty* of the Trustees, to make the proper change in the map, as soon as the act of union is duly reported to them.

The formation of "Union Districts," under the 35th Section, differs from the ordinary *consolidation* of Districts, under the 33d Section in this: that the former is done by the *Directors*, without the necessity of a popular vote—while the latter is done by the *Trustees*, in obedience to the popular will—and also in this, that the purpose in the former case is, to establish a Graded School, of higher order than the common mixed school; while in the latter case, such is not the specific aim.

DISTRICT SCHOOL RECORD.

I wish again to ask attention to the system of keeping the minutes of District Boards of Directors, which I have prepared under the above title. Our school system can never have a strong and healthy growth, until its officers are prompt and faithful, and its *business details* conducted with method and accuracy. I am gratified in being able to state, that a large number of Districts are now keeping their records upon the plan proposed, and that the results are all that could be desired.

A copy of the Rules for Schools, published herewith, will be furnished hereafter, with every copy of the Record. The price of the book is \$4.00, upon which a liberal discount will be made, I am authorized to say, upon all large orders. It is strongly bound, and one copy will be sufficient for many years.

Directors are authorized to purchase the Record with the funds of the District, and they are earnestly recommended to do so.

[Johnson & Bradford, Publishers, Springfield.]

ILLINOIS TEACHER.

The Illinois Teacher is the official organ of the Department of Public Instruction, and has been, since the organization of the latter. Every subscriber to it, will get the current decisions and interpretations of this office, upon school questions of general interest, together with excellent literary and educational articles; practical hints and suggestions on schools and teaching; a summary of piquant and well-selected items of information on educational and miscellaneous subjects; able and reliable notices and reviews of new books, &c., &c., from some of the best minds and most experienced teachers in the State. The following is the publishers' circular:

THE ILLINOIS TEACHER FOR 1860—VOL. VI.

The Illinois Teacher: a Monthly Journal, devoted to Education, Science, and Free Schools. Terms, one dollar a year, in advance. DR. SAMUEL WILLARD, Bloomington, Ill., Editor; JAMES H. BLODGETT, Mendota, Ill., Associate Editor; NASON & HILL, Publishers, Peoria, Ill.

From among the many names of gentlemen whose support, as friends and regular or occasional contributors, has been promised to the *Teacher*, we present the following of persons whose public function or position makes them more likely than others to be extensively known:

Hon. NEWTON BATEMAN, State Superintendent, and former Editor *Teacher*; CHAS. E. HOVEY, Principal State Normal University, and former Editor *Teacher*; CHAS. A. DUPEE, Principal Chicago High School, and late Editor *Teacher*; WM. H. WELLS, Superintendent Public Schools, Chicago, former Principal of Westfield Normal School, Mass., and author of Wells' Grammar; Rev. JULIAN M. STURTEVANT, D.D., President of Illinois College; JONATHAN B. TURNER, former Professor of Rhetoric, Illinois College; IRA MOORE, Professor of Mathematics, Normal University; E. C. HEWETT, Professor in State Normal University; J. V. N. STANDISH, Professor in Lombard University; E. S. WILCOX, Professor in Knox College; Rev. JOSEPH HADEN, Professor in Chicago Theological Seminary; S. M. CUTCHEON, Superintendent Public Schools, Springfield.

NASON & HILL, *Publishers, Peoria, Ill.*

RULES AND REGULATIONS

FOR PUBLIC SCHOOLS.

I am so often applied to for my views respecting the government and management of public schools, that I have been induced to prepare, and beg leave respectfully to present, for the consideration of Teachers, Parents, Directors, and friends of free schools generally, the following compend of rules and suggestions, founded upon principles which are recognized as sound and useful by the most experienced teachers. These are mainly *compiled* from the best sources at my command.

It is not presumed that they will be found *exactly adapted* to the circumstances of any individual community or school. They are offered only as a sort of general thesaurus, from which each District can select to suit its own needs. The chief utility hoped for, is in the way of hints and suggestions to the inexperienced.

It is proper to add, that most of these regulations have borne the test of long experience, in many of the best schools in the land. Many of them I have myself used, with the best results, for many years.

Among the authorities consulted, special acknowledgment is due to "The Teachers' Assistant," by CHARLES NORTHEND, of New Britain, Conn.; an excellent treatise recently published. I have also made free use of whatever I could find, suited to my purpose, in the published codes of Boston, Cincinnati, St. Louis, Chicago, Cleveland, Columbus, Springfield, Jacksonville, &c.

[I]

RULES DERIVED FROM THE SCHOOL LAW.

1. No person under five, or over twenty-one years of age shall be received into any District school, without the special permission of the Directors.

2. No person, under twenty-one, shall attend school in any District but the one in which he resides, without *written permission* from the Directors of *both Districts*.

3. Schedules shall be kept in the form prescribed by law, and promptly returned to the Directors for their examination and approval.

4. When a school is composed of pupils from different Districts, Townships or Counties, a separate schedule shall be kept for each District, Township or County.

5. Before any teacher can be lawfully employed by the Directors, he or she must exhibit to them, a legal certificate of qualifications, from the School Commissioner of the County in which the school is to be taught.

6. Teachers whose certificates have been revoked by the School Commissioner, shall not be entitled to public money, from and after the date of said revocation.

7. The Directors may dismiss a teacher, for incompetency, cruelty, negligence, or immorality.

8. The Directors may prescribe what branches shall be taught, and may suspend or expel pupils, for refractory or incorrigibly bad conduct.

[III]

RULES GOVERNING TEACHERS.

1. All the teachers are required to be in their respective school rooms, both morning and afternoon, fifteen minutes before the time fixed for the session to begin.*

2. The hours of study, and recitation and recreation, shall be arranged in tabular form and these hours shall be punctually and strictly observed.

3. The teachers of the several schools shall prescribe such rules for the use of the yards and out-buildings connected with the school houses as shall insure their being kept in a neat and proper condition, and shall examine them as often as may be necessary for such purpose.

*The time may be ten, fifteen, or twenty minutes—or, fifteen in the morning and five in the afternoon.

4. It shall be the duty of the teachers to give vigilant attention to the ventilation and temperature of their school-rooms. A regular system of ventilation shall be practiced in winter as well as in summer, by which the air in all the school rooms shall be effectually changed at each recess, at the close of each school session, and at such other times as may be necessary to prevent the breathing of impure air. Whenever windows are opened for the purpose of ventilation it shall be by lowering them from the top; and children shall in no case be allowed to sit in a draught of cold air. The temperature of the rooms should at no time be higher than 65 degrees Fahrenheit.

5. Every teacher shall allow a recess, each half day, of fifteen minutes, from the time the pupils leave their seats, until they are again seated, and this should be given as nearly as may be at the expiration of one-half of each school session. No pupil shall be deprived of recess except when he has previously been allowed to go out, or is suffering penalty; nor shall any pupil study recess time unless under similar circumstances.

No pupil shall be detained at the *noon* recess, and a pupil detained at any other recess shall be permitted to go out immediately thereafter.

In schools for small children, there may be more frequent recesses. Some allow three or five minutes recess, within doors, after recitation, &c.

6. Teachers shall notify Directors whenever it is necessary to procure articles for sweeping and cleaning the school house, or to employ persons to make the necessary fires, and insure the cleanliness of the building.

7. Teachers shall prescribe such rules for the use of the yards and out-buildings connected with the school houses as shall insure their being kept in a neat and proper condition, and shall examine them as often as may be necessary for such purpose, and they shall be held responsible for any want of neatness or cleanliness on their premises.

8. The Principal of each department of the several schools shall establish special rules for securing good order in the stair-ways and school yards.

9. Teachers may inflict punishment by detaining a pupil after school; by requiring a pupil to stand or sit in some specified place; or by whipping with a switch or strap; but no blows shall be inflicted with a ruler or any inflexible substance, nor with a cow-hide, hickory rod, rope, knotted cord or stick, nor shall any blows be inflicted upon the head of a pupil; nor shall any punishment be inflicted by pulling hair or ears, slapping, placing in painful or ridiculous postures, or in any other way than those first above permitted.

10. Whenever punishment is inflicted by detention or by whipping, the teacher shall keep a record of the name of the pupil punished, the time when he was punished, the cause of punishment, and the nature and amount of the punishment; and this record shall be kept private and exhibited to the school officers only, at their request. If possible, all but the teacher and pupil shall be excluded from the room in which corporal punishment is inflicted, during such punishment. Avoid corporal punishment as much as possible.

11. Teachers may, for violent insubordination or opposition to authority, or for flagrant offenses, temporarily suspend a pupil from the school, and require him to leave the premises; but all such suspensions shall be temporary only and must be reported on the same day to the parents or guardian and to the Board of Directors for further action, and shall stand good until action of the Board is had.

12. Teachers may give, in each quarter, one morning half-holiday and one afternoon half-holiday, either on the same day, or on different days, for the purpose of obtaining time to visit other schools in the District or in the vicinity.

13. Teachers shall keep a register according to a prescribed method, in which they shall record the names of the parents and guardians, the names, ages, and the time of entrance of the scholars, and indicate their attendance and deportment; and shall make such a report at the close of each term as the Board may require.

14. The teacher shall send a monthly report to the parent or guardian of each pupil, showing the averages of the pupil in attendance, scholarship and deportment; to be signed by the parent or guardian, and returned to the teacher.

15. In case of tardiness or absence, teachers shall require pupils to bring or send an excuse in writing, from their parents or guardians, assigning good and sufficient reason for such tardiness or absence.

16. No pupil shall be permitted to leave school at recess, or at any other time before the regular hours of closing school, for the purpose of attending to any music, dancing, writing or other lessons, or for any other cause whatsoever, except that of sickness, or some urgent necessity.

Sickness of the pupil, or in the family, or some pressing emergency, shall be the only legitimate excuse for absence; and in default of such excuse, the re-admission of the pupil shall depend upon the circumstances of the case, and the discretion of the Directors.

17. No holidays shall be given in school except those allowed by the Board of Directors; nor shall any teacher dismiss his school before the regular time, except for accidents or emergencies which render the room untenable for the time, or on account of sickness.

18. Teachers shall not appropriate to themselves in the school or within the hours thereto belonging, any portion of time for their own reading, writing or business; nor shall they engage in any other business which, in the judgment of the Board of Directors will interfere with or be inconsistent with the performance of their duties.

19. Teachers shall not engage in any other teaching or give private lessons before 6 o'clock P. M., Saturdays excepted.

20. No teacher shall absent himself from school, during school hours, except on account of sickness, or other unavoidable necessity.

21. No teacher shall have the right to resign, during the term for which he or she was appointed, without consent of the Board and at least two weeks' notice. Any teacher doing so, shall be liable to the forfeiture of two weeks salary, at the option of the Directors.

22. No teacher shall allow any advertisements to be distributed or posted in the school house or on its premises; nor shall any person be permitted to enter the school for the purpose of exhibiting any book or apparatus or other article for sale to the teachers or pupils.

23. Teachers shall not sell books and stationery to pupils ; nor allow any contribution or subscription to be raised in school ; provided that this restriction shall not be held to prohibit teachers from encouraging their pupils in appropriate ways to subscribe for juvenile or educational periodicals.

24. When a teacher assigns lessons to be learned out of school hours, he must have due regard to the age, health and proficiency of the pupil.

25. Teachers shall not vary from the usual order of school exercises, on account of visitors.

26. Teachers shall not award any medals or other prizes to the pupils under their charge, unless specially authorized by the Board.

27. No pupil shall be received or continued in the common schools, known to be affected with a contagious or infectious disease, or coming from a family where any such disease prevails.

28. It shall be the duty of each teacher to see that the windows of his school-room are carefully closed ; that the fire, if any, is in a perfectly safe condition, and that the outside door of his room is locked at the close of each day.

29. Any child that comes to school without proper attention having been given to the cleanliness of his person or dress, or whose clothes need repairing, shall be sent home to be properly prepared for the school room.

20. It shall be the duty of the principals of the schools to read to the pupils of their respective departments, from time to time, so much of the school regulations as apply to them, that they may have a clear understanding of the rules by which they are governed.

ADVISORY SUGGESTIONS.

[*From the Teacher's Assistant.*]

1. From your earliest intercourse with your pupils, inculcate the necessity of prompt, cheerful and exact obedience.

2. Unite firmness with gentleness ; and let your pupils clearly understand that you mean exactly what you say.

3. Never promise anything, unless you are quite sure you can give, or do, what you promise.

4. Never threaten a definite punishment for an anticipated offense.

5. Study the dispositions of your pupils, and adapt your modes of discipline to the same.

6. Never be late at school.

7. Be courteous in action and expression.

8. Never tell a pupil to do any thing, unless you are sure he knows how it is to be done;—or show him how to do it, and then see that he does it.

9. Always punish a pupil for willful disobedience; but never punish unduly, or in anger; and in no case give a blow on the head.

10. Never let your pupils see that they can vex you, or make you lose your self-control.

11. If pupils are under the influence of an angry or petulant spirit, wait till they are calm and then reason with them on the impropriety of their conduct.

12. Never yield anything to a pupil because he looks angry, or attempts to move you by threats and tears. Deal mercifully, but justly too.

13. A little present punishment, when the occasion arises, is more effectual than the threatening of a greater punishment, should the fault be renewed.

14. Never allow pupils to do at one time, what you have forbidden, under the like circumstances at another.

15. Teach the young that the only sure and easy way to appear good is to be good.

16. Never allow tale-bearing.

17. If a pupil abuses your confidence, make him, for a time, feel the want of it.

18. Never allude to former errors, when real sorrow has been evinced for having committed them.

19. Encourage, in every suitable way, a spirit of diligence, obedience, perseverance, kindness, forbearance, honesty, truthfulness, purity and courteousness.

20. Never speak in a scolding, fretful manner, but use

tones of gentleness. Some teachers defeat their object by using harsh and boisterous tones.

21. Be consistent in your requirements and uniform in your practice.

22. Set a good example in all things. Constantly aim at thoroughness in teaching.

23. Inculcate habits of neatness.

24. In conduct be what you wish your pupils to become ; avoid what you wish them to avoid.

[I I I I]

RULES GOVERNING PUPILS.

1. No pupil shall be suffered to remain in school unless furnished with the books and utensils required to be used in the department to which he belongs.

2. Pupils shall not bring to school, for the purpose of perusal, any papers, periodicals, novels or other books, having no connection with their school exercises.

3. Scholars must not appear in or about the yard earlier than thirty minutes before the opening of the school, except by permission of the teacher in charge, nor remain in the yard, for play or any other purpose, after school, either morning or evening, but shall leave the premises immediately.

4. Scholars shall be prompt and punctual in their attendance, and in case of absence or tardiness shall present a written excuse from the parent or guardian to their teacher; and all lessons omitted on account of absence or tardiness, shall be made up unless there are sufficient reasons to the contrary.

5. No pupil shall be allowed to leave the yard at recess, without permission from the teacher.

6. Every pupil who shall, *accidentally* or *otherwise*, injure any school property, whether fences, gates, trees or shrubs, or any building or any part thereof, or break any window glass, or injure or destroy any instrument, apparatus or furniture belonging to the school, shall be liable to pay in full for all the damage he has done.

7. Any pupil who shall call out to, hoot at, throw any missile at, or in any other manner molest or annoy any person in the street, shall be deemed guilty of a flagrant offense, and shall be dealt with accordingly.

8. Pupils shall not sit or stand upon the fences in front of the school-house at any time.

9. Any pupil who shall absent himself from any regular examination of the school which he attends, without rendering a satisfactory excuse to the principal, shall be suspended from the school; and the principal shall immediately report the case to the parent of the pupil, and also to the Directors for their action thereon.

10. Scholars wishing to leave the school at any time during the term, should signify the same to the teacher, and secure an honorable dismissal; and any scholar who shall be absent more than a week without notifying the teacher, shall forfeit all claim to his desk for the remainder of the term.

11. Caps, bonnets and all outer garments must be placed on the hook assigned to each pupil, immediately on entering school.

ADVISORY SUGGESTIONS.

[*From the Teacher's Assistant.*]

1. On entering the school, pass as quietly as possible to your seat, taking care to close the door gently, and avoid making unnecessary noises with the feet in crossing the room.

2. Take out books, slate, etc. from your desk with care, and lay them down in such a manner as not to be heard. Avoid making a rustling noise with papers, or noisily turning over leaves of books. Never let the marking of a pencil on your slate be heard.

3. Be careful to keep the feet quiet while engaged in study; or if it be necessary to move them, do it without noise.

4. In passing to and from recitations, observe whether you are moving quietly. Take special care if you wear thick shoes or boots, or if they are made of squeaking leather.

5. Avoid the awkward and annoying habit of making a noise with the lips while studying.

6. Scuffling, striking, pushing, or rudeness of any kind should never be practiced at all within the school building.

7. Let your shoes or boots be cleaned at the door-steps; always use the mat, if wet, muddy, or dirty.

8. Never suffer the floor under your desk, or the aisles around it, to be covered by papers, or anything else dropped on it.

9. Avoid spitting on the floor; it is a vulgar, filthy habit.

10. For cleaning your slate you should provide yourself with a piece of sponge and should moisten it with clean water, before school opens, or at recess.

11. Marking or writing on the desks, walls, or any part of the building, or school premises, with pencil, chalk or other articles, manifests a bad taste, or a vicious disposition to deface and destroy property. None but a vicious, reckless, or thoughtless person will do it.

12. Knives should never be used in cutting anything on a desk.

13. Particular care should be observed to avoid spilling ink anywhere in the school building.

14. Let your books, etc. be always arranged in a neat and convenient order in your desk and upon it.

15. After using brooms, dust brushes etc., always return them to their places.

16. Be ambitious to have every part of our school in so neat and orderly a condition, that visitors may be favorably impressed with this trait of our character.

17. Never meddle with the desk or property of another scholar, without liberty.

18. Boys should never wear hats or caps in the school room.

19. Always be in your own place, and busy about your own duties.

MISCELLANEOUS RULES.

1. The hours of tuition and study, from the first day of April to the first day of September, shall be from 9 o'clock A. M., to 12 o'clock M., with fifteen minutes' recess and from 2 to 5 o'clock P. M., with fifteen minutes' recess; and for the remainder of the year from 9 o'clock A. M., to 12 o'clock M., and from $1\frac{1}{2}$ to $4\frac{1}{2}$ o'clock P. M., with fifteen minutes' recess.

2. The books used and the studies pursued in all the public schools, shall be such and such only as may be authorized by the Board.

3. The holidays shall be every Saturday, Christmas to New Year's Day, inclusive, and all Thanksgiving and Fast Days authorized by the State and General Government.

4. No teacher or pupil shall be permitted to use tobacco in any form, during school hours.

5. Proprietors or agents of public exhibitions, desiring the attendance of pupils from the public schools, are prohibited from causing said exhibitions to be published in the Schools, without consent of the Board of Directors.

6. All sweeping, dusting, and cleansing school houses shall be done out of school hours.

7. In all cases where the conduct and habits of a pupil are found injurious to associates, it shall be the duty of the principal, to report the matter to the Directors for their action.

8. The school buildings under the control of the Board of Directors, shall not be used for any other purpose than the accommodation of the public schools, except by special vote of the Board.

9. For violent and repeated opposition to the authority of any teacher of the school, the principal may exclude a pupil from the school, and immediately notify the parent or guardian, and Directors, of the cause. Such pupil, by proper expression of regret to his or her teacher, and giving satisfactory evidence of amendment, may, by the consent of the Directors, be re-instated in the school.

10. The teachers are expected, as far as practicable, to exercise a general inspection over their pupils while going to and from school.

11. The morning exercises may commence with reading a portion of Scripture, in each room, by the teacher, and it is recommended that the reading be followed with the Lord's Prayer, repeated by the teacher alone, or chanted by the teacher and children in concert.

12. Any parent or guardian, feeling aggrieved by the administration of the government of this school may make application for redress to the Board of Directors; but all are especially requested not to embarrass teachers by stating to them such grievances at the school room, or in the presence of the scholars.

13. No scholar who shall leave the school, or be withdrawn therefrom, for a supposed grievance of this kind, without consulting the Directors, shall be permitted again to enter school without the consent of the Board.

14. No pupil under censure in another District, shall be received into any school in this District, until such censure be removed. No suspended pupil shall be re-instated except by order of the Board.

I am fully aware of the lack of method and orderly arrangement, which the critical will observe in this circular, and much regret that I could not command time to render it less faulty in this respect. It is hoped that this defect will be regarded leniently, in view of the circumstances under which the labor has been performed—namely—in the brief intervals of regular office duties, which are themselves onerous, and in discharging which I am left to depend upon myself alone.

I have written solely to elucidate the principles of the school law, and sincerely hope that, imperfect as the circular is, it may prove useful to those for whom it is intended, and would earnestly invoke the kind aid of all school officers and friends of Education, in carrying out the beneficent purpose of the Free School System of Illinois.

NEWTON BATEMAN,
Supt. Public Instruction.

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